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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,879	10/19/2001	Michael S. Bender	0007056-0102/P4445	1232
32291	7590	01/27/2006		
MARTINE PENILLA & GENCARELLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085			EXAMINER ZIA, SYED	
			ART UNIT 2131	PAPER NUMBER

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/044,879

Applicant(s)

BENDER ET AL.

Examiner

Syed Zia

Art Unit

2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This office action is in response to application filed on October 05, 2005. Original application contained Claims 1-16. Applicant did not amend or cancel any Claim. Therefore, Claims 1-16 are pending for further consideration.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Peart et al. (U. S. Pub US 20030069924 A1).

1. Regarding Claim 1 Peart teach and describe a method for using a token to sign an unsigned binary (abstract, Fig.1-2, and 7) comprising:

signing an unsigned binary on a first computing device to obtain a first signature and downloading said first signature and said unsigned binary to a second computing device (Page11 [0111- 0114]);

using a token coupled to said second computing device to sign said unsigned binary to obtain a second signature; and comparing said first and second signatures (Page 14 [0145 0152], and Page 16 [0165-0175]).

2. Regarding Claim 9 Peart teach and describe a computer program product comprising: a computer usable medium having computer readable program code embodied therein configured to use a token to sign an unsigned binary signature said computer program product (abstract, Fig.1-2, and 7) comprising:

computer readable code configured to cause a computer to sign an unsigned binary on a first computing device to obtain a first signature, and computer readable code configured to cause a computer to download said first signature and said unsigned binary to a second computing device (Page11 [0111- 0114]);

computer readable code configured to cause a computer to use a token coupled to

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said second computing device to sign said unsigned binary to obtain a second signature; and computer readable code configured to cause a computer to compare said first and second signatures (Page 14 [0145-0152], and Page 16 [0165-0175]).

3. Claims 2-7, and 10-15 are rejected applied as above rejecting Claims 1, and 9

Furthermore, Peart teach and describe a system a method wherein:

As per Claim 2, and 10 using said unsigned binary on said second computing device, if said first and second signatures match (Page 12 [0121-0124]).

As per Claim 3, and 11 rejecting said unsigned binary on said second computing device, if said first and second signatures do not match (Page 12 [0127-0131]).

As per Claim 4, and 12 said token is a smart card (paragraph [0044, and 0104]).

As per Claim 5, and 13 said first computing device is a server (paragraph [0032]).

As per Claim 6, and 14 said steps of signing and using use identical hashes ((paragraph [0053]).

As per Claim 7, and 15 encrypting said unsigned binary and said first signature (paragraph [0053, 0069, and 0107]).

4. Claims 8, and 16 are rejected applied as above rejecting Claims 7, and 14 Furthermore, Peart teach and describe a system a method wherein:

As per Claim 8, and 16 further comprising: decrypting said encrypted unsigned binary and first signature (paragraph [00107]).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed Zia whose telephone number is 571-272-3798. The examiner can normally be reached on 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SZ  
January 12, 2006